

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**D&MC Investments, L.L.C.,**

Petitioner-Appellant,

v.

**Black Hawk County Board of Review,**

Respondent-Appellee.

**ORDER**

**Docket No. 09-07-0818  
Parcel No. 9011-19-176-001**

On March 5, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, D&MC Investments, L.L.C., (D&MC), requested a hearing and submitted evidence in support of its petition. D&MC was represented by its Manager, Brian Bast, CPA. The Black Hawk County Board of Review designated Assistant County Attorney David J. Mason as its legal representative. Both parties participated by telephone. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

D&MC is the owner of an agriculturally classified property located at 7241 Lester Road, Dunkerton, Iowa. The property consists of a thirty-nine-acre site improved with a single-family residence built in 2008, containing 1467 total square feet of living area and a full, unfinished basement. Additional improvements include a twenty-six by forty-five foot metal pole building. The property has a January 1, 2009, assessment of \$203,690, representing \$63,900 in the land value, \$3240 in agricultural buildings, and \$136,550 in the dwelling value. These assessment numbers are based upon the 2009 Real Estate Assessment Roll, dated April 9, 2009, and submitted in the certified record.

However, the property card for the subject property, requested by this Board and sent in subsequent to the hearing, allocates \$144,240 to the dwelling value. The land and ag-building values reported on the property card are the same as the assessment roll. We are unclear as to why there is a discrepancy in the dwelling value. We rely upon the notice which resulted in the protest to the Board of Review and subsequent appeal to this Board.

D&MC protested to the Black Hawk County Board of Review regarding the 2009 assessment for this parcel. Brian Bast represented D&MC in the written protest to the Board of Review, providing several attachments to support its assertions. D&MC protested on the following grounds: 1) the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), stating the property had a total value of \$195,140; and 2) there is an error in the assessment under section 441.37(1)(d). The Board of Review denied this protest.

D&MC then appealed to this Board, asserting only a single claim: the property is assessed for more than the value authorized by law.

D&MC supplied a summary appraisal completed by Jerry Jorgensen, which encompassed approximately seventy-eight acres of agricultural land, as well as the subject's dwelling and associated ag building. The other forty-one acres included in the appraisal incorporated an adjoining parcel, which is not a part of this appeal. The appraisal has an effective date of June 10, 2009. The appraisal was completed for Collins Community Credit Union for mortgage financing purposes.

The appraisal hypothetically separates out 2.5 acres of "homestead" or "building site" which encompasses the existing subject improvements, a dwelling and a garage, as well as, a metal pole building. The value assigned to this portion of property is reconciled at \$159,000. However, this is not the final conclusion of value for the "building site." Jorgensen asserts "a prospective buyer of a farm normally does not prefer to have another site to maintain, or at the very least, places little value on it. A buyer of a rural residence typically is not looking for a farm to operate." Jorgensen cites

research supporting a discount of 25-50% on the market value of the building site stand-alone. He then applies a 25% discount to reflect obsolescence due to the actual improvements being attached to a larger parcel. After this discount, his final conclusion of value for the building site is \$119,000. Jorgenson cites evidence in support of this discount; however none was included in the appraisal report to support the assertion that a discount is warranted or reflective of market actions. We believe for this reason, the obsolescence Jorgenson applied is questionable.

Additionally, the value conclusion includes a two-car attached garage which did not exist as of the January 1, 2009, assessment date. The value conclusion also includes the ag building which was valued at market value versus productivity value. Lastly, the conclusion includes 2.5 acres of land, again valued at market value versus productivity value. Ag land and buildings must be valued by net productivity and earning capacity under Iowa Code section 441.21(1)(e). We place little weight on this appraisal as support for the value of the improvements.

In his written protest to the Board of Review, Bast reported the total actual cost of the modular improvements in question as being \$127,986. While Bast refers to the supplied receipts as demonstrating the *total cost*, we also consider these figures as representing the *bill of sale* or price of the improvements. While cost and price may not coincide, in this case, we believe they are the same. The figures and supporting receipts supplied by Bast included the home purchase, plumbing, some concrete work, and the propane tank. The Board of Review asserted these costs, provided to them at time of protest, did not include the foundation. This is a reasonable assertion given the evidence they had to examine.

At the request of this Board, Bast provided the full receipt for the purchase and installation of the modular improvements in question. The receipt from Ferring Home Corporation, dated June 7, 2008, was supplied and has the following scope of work:



To deliver and set up house on 8' basement with 1 egress window, install 93% furnace, 50 gal gas W/H, 14 SEER Ac, hookup plumbing + electric in house, build steps to basement, install sill plate + provide teleposts. Price also includes all options shown in house. 1 year completed warranty.

The wording of the scope of work could imply the foundation is included in this price, or it could imply the structure being purchased will be set up on an existing foundation. However, the receipt goes on to state what is *not* included in the price: stoops, decks, window wells, final grading, landscaping, all utilities to the house, and permits. Because the foundation is not included in this list, it is reasonable to assume it has been included in the cost of the structure and therefore included in the \$120,872 price of improvements invoiced. Additionally, we believe Bast's testimony was forthright and honest when he stated the foundation was included in this price.

As previously note, while we are aware that cost or price does not always equal market value, it can be an indication of market value. In this case, there is no evidence that would demonstrate market value is higher than the price paid for this property.

Based upon the foregoing, the Appeal Board finds sufficient evidence in the record to support a claim that the subject property is assessed at greater than market value, and to establish the fair market value of the subject property

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or

additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). In *Riley v. Iowa City Bd. of Review*, 549 N.W. 2d 289, 290 (Iowa 1996), the Court determined that, "It is clear from the wording of Iowa Code section 441.21(1)(b) that the sales price of the subject property in a normal sales transaction, just as the sale price of comparable property, is to be considered in arriving at market value but does not conclusively establish that value."

The price paid in this instance is a good indicator of the property's actual value, which indicates the current assessed valuation is more than authorized by law.

We, therefore, modify the assessment of the subject property located at 7241 Lester Road, Dunkerton, Iowa, as determined by the Black Hawk County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS the property assessment of D&MC Investments, L.L.C., be modified. The assessment for the property located at 7241 Lester Road, Dunkerton, Iowa, is modified

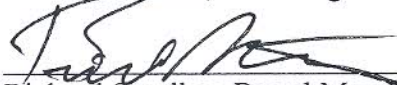
to a total value of \$195,140; representing \$63,900 in ag-land value and \$128,000 to the ag-dwelling and \$3240 to the ag-building as of January 1, 2009.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Black Hawk County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

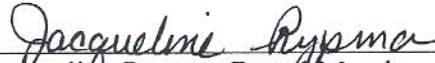
Dated this 30 day of March, 2010



Karen Oberman, Presiding Officer



Richard Stradley, Board Member



Jacqueline Rypma, Board Member

Cc:

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AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-30</u> 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	